

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

CANDACE GERTCHER,

Plaintiff,

v.

CASE NO:
HONORABLE:

JASON THERRIAN, in his individual and official capacity,

Defendant.

CHRISTOPHER TRAINOR & ASSOCIATES CHRISTOPHER J. TRAINOR (P42449) AMY J. DEROUIN (P70514) Attorneys for Plaintiff 9750 Highland Road White Lake, MI 48386 (248) 886-8650 /(248) 698-3321-fax amy.derouin@cjtrainor.com	
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**THERE IS NO OTHER PENDING OR RESOLVED ACTION ARISING
OUT OF THE TRANSACTION OR OCCURRENCE ALLEGED IN THE
COMPLAINT**

COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, **CANDACE GERTCHER**, by and through her attorneys, CHRISTOPHER TRAINOR & ASSOCIATES, and for her Complaint against the above-named Defendant states as follows:

1. Plaintiff is currently a resident of the Township of Dollar Bay, County of Houghton, State of Michigan.

2. Defendant Jason Therrian is and/or was a police officer working and/or assigned to the State of Michigan and at all times mentioned herein was acting under color of law, in his individual and official capacity, and within the course and scope of his employment.
3. All events giving rise to this lawsuit occurred in the Township of Dollar Bay, County of Houghton, State of Michigan.
4. This lawsuit arises out of Defendant's violation of Plaintiff's federal constitutional rights as secured by the Fourth Amendment as it applies to the States through the Fourteenth Amendment to the United States Constitution and consequently, Plaintiff has a viable claim for damages under 42 U.S.C. §1983. Plaintiff also has viable state law claims.
5. Jurisdiction is vested in this Court pursuant to 28 U.S.C. §1331 [federal question] and 28 U.S.C. § 1343 [civil rights].
6. That the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), not including interest, costs, and attorney fees.

FACTS

7. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.

8. That on May 7, 2019, Plaintiff was at her home located at 23373 Elm Avenue, Dollar Bay, MI 49922.
9. That Defendant Jason Therrian arrived at 23373 Elm Avenue, Dollar Bay, MI 49922.
10. That Plaintiff came to the front door of the house and opened the door.
11. That Defendant Jason Therrian grabbed Plaintiff's right arm and pulled her, slamming her head into the metal doorframe.
12. That Defendant Jason Therrian handcuffed Plaintiff's right wrist and proceeded to take her down.
13. That Plaintiff informed Defendant Jason Therrian that she has had multiple surgeries on her left shoulder.
14. That Defendant Jason Therrian grabbed Plaintiff's left arm and forced it behind her back and upwards.
15. That Defendant Jason Therrian handcuffed Plaintiff's left wrist.
16. That Plaintiff complained to Defendant Jason Therrian that her handcuffs were too tight.
17. That Defendant Jason Therrian did not loosen Plaintiff's handcuffs.
18. Plaintiff was transported to the Houghton County Jail.

19.As a result of Defendant's unlawful and excessive actions and/or inactions, Plaintiff suffered significant injuries and damages.

COUNT I
VIOLATION OF THE FOURTH AMENDMENT
42 U.S.C. § 1983 EXCESSIVE FORCE

20.Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.

21.At all relevant times herein, the individual Defendant acted under color of law, within the scope and course of his employment, and in his official and individual capacity.

22.Defendant violated Plaintiff's clearly established and federally protected rights as set forth under the United States Constitution and the Amendments thereto, including, but not limited to, the Fourth Amendment of the United States Constitution to be free from unreasonable searches and seizures mainly to be free from excessive use of force, when he employed unnecessary and unreasonable excessive force which resulted in significant injuries to Plaintiff.

23.The actions of Defendant were at all times objectively unreasonable in violation of Plaintiff's clearly established rights under the Fourth Amendment to the United States Constitution which proximately resulted in significant injuries to Plaintiff.

24. Defendant is not entitled to qualified immunity because he violated Plaintiff's clearly established Fourth Amendment right to be free from excessive use of force.

25. As a proximate result of the violations and/or deprivations of Plaintiff's constitutional rights by Defendant, Plaintiff has a viable claim for compensatory and punitive damages pursuant to 42 U.S.C. § 1983 together with costs, interests, and attorney fees as set forth in 42 U.S.C. § 1988.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter an award in her favor and against Defendant in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interest, costs, and attorney fees.

Respectfully Submitted,
CHRISTOPHER TRAINOR & ASSOCIATES

s/ Christopher J. Trainor

CHRISTOPHER J. TRAINOR (P42449)

AMY J. DEROUIN (P70514)

Attorneys for Plaintiff

9750 Highland Road

White Lake, MI 48386

(248) 886-8650

amy.derouin@cjtrainor.com

Dated: December 3, 2020

CJT/lvp

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DEMAND FOR TRIAL BY JURY

NOW COMES Plaintiff, **CANDACE GERTCHER**, by and through her attorneys, CHRISTOPHER TRAINOR & ASSOCIATES, and hereby makes a demand for trial by jury in the above-entitled cause.

Respectfully Submitted,
CHRISTOPHER TRAINOR & ASSOCIATES

s/ Christopher J. Trainor
CHRISTOPHER J. TRAINOR (P42449)
AMY J. DEROUIN (P70514)
Attorneys for Plaintiff
9750 Highland Road
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(248) 886-8650
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Dated: December 3, 2020
CJT/lvp